

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

AMYIAH COHOON, a minor,
by and through her parents,
Richard Cohoon and Angela Cohoon,

Plaintiff,

Case No. 2:20-CV-620-JPS

v.

JOSEPH KONRATH and CAMERON KLUMP,

Defendants.

DECLARATION OF SHERIFF JOSEPH KONRATH

STATE OF WISCONSIN)
) ss.
MARQUETTE COUNTY)

I, SHERIFF JOSEPH KONRATH, being first duly sworn upon oath, deposes and states as follows:

1. I am the elected Sheriff of Marquette County and was in this position at the time of the incident that is the subject of this complaint. I base this Declaration on my personal knowledge and review of various documents which are under my possession and control. I did review the squad video and audio recording, which I first reviewed on April 16, 2020, after this lawsuit was filed.

2. I have been employed with the Marquette County Sheriff's Department for over 35 years. During this time period, I have held several positions including dispatch/jailer, Patrol

Deputy, Detective Sergeant and prior to being elected Sheriff, I was the Chief Deputy for 12 years.

3. My first involvement in the incident that is the subject of this Complaint was on March 27, 2020. On that date, at approximately 5:30 p.m., I received a call from Public Health Nurse Allison Davey from the Marquette County Public Health Department. Nurse Davey informed me of the Cohoon family and concerns she had about a recent social media post made by Ms. Amyiah Cohoon, who was a student in the Westfield School District and had just returned a short time ago from a high school trip to Florida that included many other Marquette County residents.

4. Nurse Davey sent me an email showing a recent social media post made by Ms. Amyiah Cohoon. In this social media post, Ms. Amyiah Cohoon stated as follows: “I am finally home after being hospitalized for a day and a half. I am still om (sic) breathing treatment but have beaten the corona virus. Stay home and be safe” I understood from Nurse Davey that this post had been made after Ms. Amyiah Cohoon returned from the UW Hospital and after she tested negative for COVID-19.

5. Nurse Davey relayed that while Ms. Amyiah Cohoon posted she had “beaten the corona virus”, her test for COVID-19 at the UW Hospital came back negative, meaning that, according to Nurse Davey, Ms. Amyiah Cohoon did not have COVID-19.

6. I also was informed by Nurse Davey that this social media post was creating unfounded concern, a disturbance and panic with the parents and students who had been on the same high school band trip to Florida, the Westfield School District and other individuals who had contact with those on the trip or had just seen the posting. I was advised that the Marquette County Health Department also received several calls from community residents who were

disturbed and inquiring about this posting and whether she had tested positive for COVID-19. These calls to the Health Department were reportedly negatively impacting the already-strained resources of the Marquette County Health Department. I was also advised that school officials also were forced to respond to repeated inquiries related to this social media post.

7. This social media post was concerning to me as it appeared to convey false information, given the negative test result as described to me by the County Health Department, and it was causing panic, concern and disturbance with community members who may have had contact with Ms. Amyiah Cohoon or others on the class field trip. It was my understanding that these individuals understandably expressed concern over whether they potentially had COVID-19 in light of being in contact with Amyiah Cohoon on the school trip, whether they needed to be tested and whether they needed to call off of work and self-isolate away from other family members.

8. Given the panic, concern and disturbance within the community created by this social media post, and in light of the fact Ms. Amyiah Cohoon actually tested negative for COVID-19, Nurse Davey requested that the Sheriff's Department talk to the Cohoon family to see if Ms. Amyiah Cohoon would agree to remove the social media post, in which she stated she had beaten COVID-19.

9. Shortly after speaking with Nurse Davey, I spoke with Patrol Sergeant Klump, who was on duty at that time. I relayed to Patrol Sergeant Klump information about the social media post made by Ms. Amyiah Cohoon where she reported she had beat COVID-19, but the Marquette County Health Department had advised that Ms. Amyiah Cohoon tested negative. I also relayed to Patrol Sergeant Klump that such posting was concerning as it was conveying false information given the negative result and it was now creating a disturbance, panic and

unfounded concerns with the parents and students in the Westfield School District, the School District, the Marquette County Health Department and other County residents. I explained to Patrol Sergeant Klump that both the Marquette County Health Department and the school district were having their resources depleted due to the need to attempt to respond to all of the inquiries related to the social media post, which again, I was advised was inaccurate by our County Health Department. I did forward to Patrol Sergeant Klump the email of the social media post.

10. I requested Patrol Sergeant Klump to respond to the Cohoon residence, make contact with the Cohoon family and to inquire whether Ms. Amyiah Cohoon would voluntarily remove the social media post stating that she had beat COVID-19.

11. If Ms. Amyiah Cohoon would not agree to remove the social media post voluntarily, I mentioned to Patrol Sergeant Klump that the Sheriff's Department could proceed with several options. I discussed with Patrol Sergeant Klump that there would be a wide range of options if Ms. Amyiah Cohoon refused to remove the post, including a referral for Disorderly Conduct, working with the Health Department, and contacting Facebook to see if the posting could be removed. I never directed Patrol Sergeant Klump to arrest or issue a disorderly conduct ticket to Ms. Amyiah Cohoon if she did not agree to voluntarily remove the posting. If Ms. Amyiah Cohoon refused to take the social media post down, Patrol Sergeant Klump would assess the situation further. Before Patrol Sergeant Klump would take any further action, I expected and the plan was for Patrol Sergeant Klump to contact me before he proceeded with any option, particularly the issuance of a citation or making a referral for disorderly conduct. I was later informed that Ms. Amyiah Cohoon cooperated and voluntarily removed the Instagram post so there was no need to consider any other options.

12. At all times material to my involvement in this matter, I was under the belief that this social media post made by Ms. Amyiah Cohoon that she was recovering from COVID-19 was made on Facebook. I later was informed by Patrol Sergeant Klump, after his discussion with the Cohoon family that the posting had actually been made on Ms. Amyiah Cohoon's Instagram account.

13. I was not present on March 27, 2020, during the time Patrol Sergeant Klump interacted with the Cohoon family. I did not have any conversation or communications with Ms. Amyiah Cohoon or her parents on or prior to March 27, 2020 about removing the social media post or that Ms. Amyiah Cohoon would be cited or arrested if she did not voluntarily remove it.

14. The Marquette Sheriff's Department does not regularly "patrol" speech. I understand that nearly all speech is protected by the First Amendment and I take my oath to uphold the Constitution seriously. It was the intention of the Marquette Sheriff's Department to speak with Ms. Amyiah Cohoon to explain the negative impact her post was having on the community and ask that she voluntarily remove the post as requested by the County Health Department.

15. Prior to this incident, I am not aware of the Marquette Sheriff's Department ever being in a situation where the Department has asked someone to remove a social media post.

16. The post was purported to be false and implicated significant public health consequences for our community, causing a disturbance, panic, distress and concern within the Westfield School District and larger community in general. The Sheriff's Department's goal was always to have a reasonable discussion to attempt to have Ms. Amyiah Cohoon take the post down without the need for further action. Attached hereto as Exhibit 1, is a true and correct copy of Marquette County's Ordinance for disorderly conduct.

17. Once Ms. Amyiah Cohoon voluntarily took her Instagram post down at the request of Patrol Sergeant Klump, I felt that the County Health Department's request was complied with and from the Sheriff Department's perspective, there was no further action that needed to be taken and certainly no ongoing monitoring of anyone's social media posts.

18. I was not aware that the Westfield School District was going to release the statement that it did, as referenced in the complaint. I only learned of the statement after Mr. Cohoon called Patrol Sergeant Klump to express his displeasure with it.

19. My contact and instructions to Patrol Sergeant Klump on March 27, 2020 were part and parcel of my regular law enforcement duties as Sheriff. My initial instructions were not intended to create a new policy within the Sheriff's Department for future citizen encounters. Rather, my discussion and instructions were related to this case solely and in an effort to provide some initial guidance that specifically allowed for future options to make any number of additional decisions, depending on how the situation with Ms. Amyiah Cohoon developed.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 23rd day of April, 2020.

s/ Joseph R. Konrath
SHERIFF JOSEPH KONRATH